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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,152	04/27/2001	Markus Stolze	SZ999024US1/954-010121-US	1785
7590		03/11/2005	EXAMINER	
Perman & Green, LLP		MCCLELLAN, JAMES S		
425 Post Road		ART UNIT		
Fairfield, CT 06430		PAPER NUMBER		

3627

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/844,152

Applicant(s)

STOLZE ET AL.

Examiner

James S McClellan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-8,10-26 and 29-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-26,30 and 31 is/are allowed.
- 6) ☒ Claim(s) 1,4-8,10-16,19-21,29 and 32 is/are rejected.
- 7) ☒ Claim(s) 17,18,22 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Request for Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/15/04 has been entered.

Amendment

2. Applicant's submittal of an amendment was entered on 12/15/04, wherein:

- claims 1, 4-7, 10-26, and 29-32 are pending;
- claims 2, 3, and 9 have been canceled;
- claims 1, 11, 13, 14, 24, 30, and 31 have been amended; and
- claim 32 has been added.

Claim Objections

3. Claim 29 is objected to because of the following informalities: in line 2, "sores" should be replaced with "scores". Appropriate correction is required.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1, 4-8, 10-16, 19-21, 29, and 32 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the “progress of science and the useful arts” (i.e., the physical sciences as opposed to social sciences) and therefore are found to be non-statutory subject matter. For a process, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claims 1, 4-8, 10-16, 19-21, 29, and 32 fail to positively recite technology in the body of the claims. It is noted that claim 1 and 32 include limitations in the preamble that set forth that the method for selecting a question is “in an electronic catalog system”. Additionally, claim 1 requires processing product data stored in said system. However, it is not clear in the body of the claim that the method steps are performed using the electronic catalog system. The method steps could be carried out manually without applying, involving, using, or advancing the technological arts. In order to overcome this rejection, the Examiner recommends merely adding limitations from the preamble into the body of the claim that clearly identifies the system as the device used to process the method steps. For example, see claim 22,

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which requires “receiving from a feature-based filtering component”. In claim 22, it is clear that technology (the filtering component) is used in the process.

Allowable Subject Matter

6. Claims 1, 4-8, 10-16, 19-21, 29, and 32 are allowable upon amendment to clearly define the methods steps use of technology in the body of the claims.

7. Claims 24-26, 30, and 31 are allowed.

8. Claims 17, 18, 22, and 23 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212 until April 13, 2005. After April 13, 2005, the examiner can be reached at (571) 272-6786. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

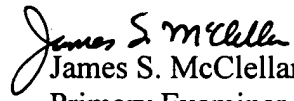
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or faxed to:

(703) 872-9306 (Official communications) or
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,
Arlington, VA, 7th floor receptionist.


James S. McClellan
Primary Examiner
A.U. 3627

jsm
March 3, 2005